

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 3:21-CR-107-NBB-RP

GILBERT MCTHUNEL

DEFENDANT

MOTION TO CONTINUE TRIAL AND ALL DEADLINES

COMES NOW the Defendant, GILBERT MCTHUNEL, II, by and through counsel, and moves the Court to continue his trial date and all deadlines, and in support thereof shows as follows:

1. This motion is unopposed by the government, as represented by Assistant United States Attorney Robert Mims.

2. To date, Assistant United States Attorney and counsel have conferred about the status and exchange of discovery in a productive and open manner. The government has provided discovery as this is an unusual and complex case involving a lengthy investigation with the investigators use of geofencing technology and other cellular phone tower and location technology. Counsel for the Defendant has preliminarily reviewed the electronic discovery provided by the government and needs assistance to interpret said data and has contacted an expert in the area of geofencing technology to assist in the case. Defense counsel will need additional time before trial to review all of the discovery materials, to consult an expert, and to discuss the same with the Defendant.

3. Undersigned counsel will require additional time beyond the current trial date of February 28, 2022, to review the discovery and investigate all the factual allegations, locate and

interview witnesses, conduct legal research and prepare and file pretrial motions, and prepare for trial.

4. For these reasons, the defense requests that the Court find:

(a) taking into account the exercise of due diligence, a failure to grant a continuance would deny counsel for the defendant the reasonable time necessary for effective preparation, due to counsel's need for more time to review the evidence, consider possible defenses, and gather evidence material to the defense, as set forth in 18 U.S.C. § 3161(h)(7)(B)(ii) and (iv); and

(b) a failure to grant a continuance would likely result in a miscarriage of justice, as set forth in 18 U.S.C. § 3161(h)(7)(B)(i); and

(c) the additional time requested is a reasonable period of delay, as counsel has requested more time to prepare for trial, to investigate the matter, to gather evidence material to the defense, and to consider possible defenses; and

(d) the Government has produced discovery that will require additional time to review and conduct follow-up investigation. The case is sufficiently complex that it is unreasonable to expect adequate preparation for pretrial proceedings or the trial itself within the current trial schedule, as set forth in 18 U.S.C. § 3161(h)(7)(B)(ii); and

(e) the ends of justice will best be served by a continuance, and the ends of justice outweigh the best interests of the public and the defendant in a speedy trial, as set forth in 18 U.S.C. § 3161(h)(7)(A); and

(f) the additional time requested between the current trial date of February 28, 2022, and the new trial is necessary to provide counsel for the defendant reasonable time to prepare for trial considering counsel's schedule and all of the facts set forth above.

5. Therefore, the defense respectfully requests the court to find a continuance of the trial and all respective or corresponding deadlines be reset.

6. That the Defendant does not make this motion for the purpose of delay, but in the interests of justice. That the Defendant seeks to continue the trial date and all corresponding deadlines.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that the Court will continue its February 28, 2022, trial date, along with all other contingent deadlines.

RESPECTFULLY SUBMITTED this the 3rd day of February, 2022.

GILBERT MCTHUNEL, II, Defendant

BY: /s/ Paul Chiniche
Paul Chiniche (MSB#101582)
CHINICHE LAW FIRM, PLLC.
Post Office Box 1202
Oxford, Mississippi 38655
Tel. 662.234.4319
Email. pc@chinichelawfirm.com

CERTIFICATE OF SERVICE

I, Paul Chiniche, attorney for the Defendant in the above and foregoing action, do hereby certify that I have electronically filed the above and foregoing with the Clerk of the United States District Court using the ECF system which sent notification of such filing to the following:

Robert Mims, AUSA
Email: robert.mims@usdoj.gov

SO CERTIFIED this the 3rd day of February, 2022.

/s/ Paul Chiniche
Paul Chiniche (MSB#101582)